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for energy consumers

Tony Nixon
National Grid Gas plc
Company Number 02006000
1-3 Strand London
WC2N 5EH

Ref: Notification of changes that may affect
eligibility for Certification

Direct Dial: 020 3263 9695

Email:

unbundlingcertification@ofgem.gov.uk

Date: 15 November 2022

Dear Mr Nixon,

**Certification under the ownership unbundling requirements of Gas Act 1986:
Decision of the Gas and Electricity Markets Authority (the Authority)¹**

National Grid Gas plc, company number 02006000, (the 'Licensee'/'Certified Person'), holds a gas transmission licence treated as granted under section 7(2) of the Gas Act 1986 (the 'Gas Act') and is currently certified as independent under Section 8F of the Act by virtue of confirmation on 19 June 2012 of the Authority.²

On 27 March 2022, National Grid plc ('NG') agreed to sell a majority equity interest in the Licensee to Luppiter Bidco Ltd ('BidCo'), a company incorporated in England and Wales with registered number 13987703 (the 'Proposed Transaction').³ BidCo is currently ultimately controlled by Macquarie Group Ltd and from completion of the Proposed Transaction the ultimate controllers of BidCo will be British Columbia Investment Management Corporation ("BCI") and Macquarie Group Ltd. The ultimate controller of the Certified Person is currently National Grid plc and from completion of the Proposed Transaction the ultimate controllers of the Certified Person will be National Grid plc, BCI and Macquarie Group Ltd.

¹ In this document, the terms "Authority", "Ofgem", "we" and "us" are used interchangeably.

² [Certification decision on National Grid Gas plc | Ofgem](#)

³ <https://www.nationalgrid.com/gt-announcement>

Pursuant to a Further Acquisition Agreement signed on 27 March 2022, NG has also granted a call option giving BidCo the option to purchase the remaining 40% of the ordinary shares of the Licensee.

This letter sets out the decision of the Authority under section 8N of the Gas Act, post a review of the certification basis under section 8K(5), on the continuation or withdrawal of certification after the proposed sale of the Licensee from National Grid plc to BidCo.

'Notification of changes that may affect eligibility' for certification

On 31 May 2022, the Licensee provided notification in accordance with Standard Special Condition B4 'Notification of changes that may affect eligibility' of the Gas Transporter Licence ('Licence')⁴ held by the Licensee. The Licensee then provided further information, as requested under section 8L of the Act, on 16 September 2022, and pursuant to an update on 31 October 2022.

Notification of the Secretary of State

NG is incorporated in England and Wales, BCI is created by statute in British Columbia, Canada & Macquarie Group Limited is incorporated in Australia. Under section 8K(2) of the Gas Act, when the certified person has been or may be taken control of by a person from a country outside the United Kingdom ('UK'), the Authority must, as soon as is reasonably practicable, notify the Secretary of State. The Authority must also enclose with the notification to the Secretary of State any further information which, at the time of the notification, the Authority has in its possession and thinks is relevant to the question of whether the security of gas supplies in the UK would be put at risk by the continued certification of the person.

We notified the Secretary of State in accordance with section 8K(2) of the Gas Act. In accordance with section 8M the Secretary of State provided the Authority with a report which concluded that continuing certification of the Certified Person would not put the security of supplies in the UK at risk.

Ownership unbundling requirement tests

The Authority is required under section 8K(5) to review whether the certification basis in respect of the certified person continues to apply. In doing so the Authority revisits the application of the five tests set out in section 8H of the Gas Act in order to determine whether the Certified Person continues to meet the ownership unbundling requirement:

⁴ [Standard Special Conditions - PART B - Consolidated - 01 09 2021 \(ofgem.gov.uk\)](#)

The **first test** is that the Certified Person—

- (a) does not control a relevant producer or supplier;
- (b) does not have a majority shareholding in a relevant producer or supplier; and
- (c) will not, on or after the relevant date, exercise shareholder rights in relation to a relevant producer or supplier.

The **second test** is that, where the Certified Person is a company, partnership or other business, none of its senior officers has been, or may be, appointed by a person who—

- (a) controls a gas undertaking which is a relevant producer or supplier; or
- (b) has a majority shareholding in a gas undertaking which is a relevant producer or supplier.

The **third test** is that, where the Certified Person is a company, partnership or other business, none of its senior officers is also a senior officer of a gas undertaking which is a relevant producer or supplier.

The **fourth test** is that the Certified Person is not controlled by a person who controls a relevant producer or supplier.

The **fifth test** is that the Certified Person is not controlled by a person who has a majority shareholding in a relevant producer or supplier.

For details on Ofgem's analysis on the application of the certification tests please see the accompanying Decision document.

Certification decision

On the basis of the information contained in the notification and further information provided by the Certified Person, the Authority considers that the Certified Person continues to meet the unbundling requirement, given each of the five tests in section 8H of the Gas Act are met, or treated as met under section 8H(9A).

Our decision is that the Certified Person continues to meet the criteria and as such is certified as independent. In accordance with section 8N(1)(a) of the Gas Act, the Authority hereby notifies the continued certification of the Certified Person to the Certified Person and the Secretary of State.

In accordance with section 8K of the Gas Act, the Authority will monitor whether the basis on which it decided to continue certification of the Certified Person continues to apply following the Authority's decision and, if appropriate, will review its certification decision.

Jourdan Edwards
Deputy Director, Onshore Networks
Duly authorised on behalf of the Gas and Electricity Markets Authority
Dated: 15 November 2022

**Gas Act 1986
Section 8N**

Continued Certification – National Grid Gas plc

Pursuant to section 8N of the Gas Act 1986 ('the Gas Act') the Gas and Electricity Markets Authority hereby continues to give National Grid Gas plc certification as independent under the ground set out in section 8G(3) of the Act, subject to the attached Schedule.

Jourdan Edwards
Deputy Director, Onshore Networks

Duly authorised on behalf of the Gas and Electricity Markets Authority

15 November 2022

Schedule

Period, conditions and withdrawal of certification

A. Interpretation and Definitions

In this certification

'the Authority'	means the Gas and Electricity Markets Authority established by section 1(1) of the Utilities Act 2000, as amended from time to time
'the Gas Act'	means the Gas Act 1989, as amended from time to time
'the certified person'	means National Grid Gas plc, company number 02006000
'control'	has the same meaning as in section 8Q of the Act
'person from a country outside the United Kingdom'	has the same meaning as in section 8Q of the Act
'the relevant date'	has the same meaning as in section 8O of the Act
'shareholder right'	has the same meaning as in section 8Q of the Act

B. Period

Subject to section D below, and pursuant to section 8F of the Act, the certification, initially provided 19 June 2012, shall continue to remain in effect until it is withdrawn in accordance with section D.

C. Conditions

This certification is made subject to the following conditions:

1. The material provided by the certified person to the Authority in respect of its application for certification is true and complete.
2. If at any time the certified person knows or reasonably should know of any event or circumstance that has occurred or is likely to occur that may affect its eligibility for certification, the certified person shall as soon as reasonably practicable notify the Authority in writing of the event or circumstance and the reasons it considers that the event or circumstance may affect its eligibility for certification.
3. If at any time the certified person knows or reasonably should know that any event or circumstance has occurred, or is likely to occur, that may cause the Authority to think that the certified person is or may become a person from a country outside of the United Kingdom, or that a person from a country outside the United Kingdom has or may take control of the certified person, the certified person shall as soon as reasonably practicable notify the Authority in writing.
4. If at any time from the relevant date the certified person exercises or is likely to exercise any shareholder right or right of appointment in the circumstances

described in section 8O of the Act, the certified person shall as soon as is reasonably practicable notify the Authority in writing of the right that has been or is likely to be exercised and the effect of exercising that right.

5. By 31 July of each year, the certified person shall provide the Authority with a written declaration, approved by a resolution of the board of directors of the certified person and signed by a director of the certified person pursuant to that resolution, setting out:
 - a. Whether any event or circumstance has occurred in the previous 12 month period, or such part of that 12 month period since the certified person was certified, that may affect the certified person's eligibility for certification, and if so, the reasons it considers that the event or circumstance may affect its eligibility for certification;
 - b. Whether any event or circumstance has occurred, or is likely to occur, that may cause the Authority to think that the certified person has become a person from a country outside the United Kingdom, or that a person from a country outside the United Kingdom has taken control of the certified person, in the previous 12 month period or such part of that 12 month period since the certified person was certified; and
 - c. Whether the certified person has exercised any shareholder right or right of appointment in the circumstances described in section 8O of the Act in the previous 12 month period or such part of that 12 month period since the certified person was certified and, if so, the effect of exercising that right, provided that the certified person is only required to provide a written declaration under this paragraph (c) where it has been certified on the certification ground in section 8G(3) of the Act and in relation to a period that occurs after the relevant date.
6. The certified person furnishes the Authority in such manner and at such times as the Authority may reasonably require, with such information as the Authority may reasonably require, or as may be necessary, for the purpose of:
 - a. performing the functions assigned to it by or under the Act, the Gas Act, the Utilities Act 2000, the Energy Act 2004, the Energy Act 2008, or the Energy Act 2011, each as may be amended from time to time; or
 - b. monitoring and reviewing of the certification under section 8K of the Act; or
 - c. reporting by the Authority as to any connection of the licensee with a country outside the United Kingdom under section 8M of the Act.
7. Should any of the grounds for withdrawal arise under section D of this certification, the Authority may amend rather than withdraw this certification.

D. Withdrawal

1. Pursuant to section 8N of the Act, this certification may be withdrawn by the Authority, by giving a notice of withdrawal to the certified person not less than four months before the coming into force of the withdrawal, in any in the following circumstances:
 - a. the Authority considers that condition contained in paragraph C1 above is not met;
 - b. the Authority considers that the basis on which the Authority decided to certify the certified person does not continue to apply and has made a decision that the certification should be withdrawn;
 - c. the certified person has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency

- Act 1986, as amended from time to time) of the whole or any material part of its assets or undertaking appointed;
- d. the certified person has entered into administration under section 8 of Schedule B1 to the Insolvency Act 1986;
 - e. the certified person is found to be in breach of any national competition laws, such breach relating to the licensed activity of the certified person;
 - f. the certified person has failed to provide a declaration to the Authority pursuant to paragraph C5 above and the Authority has written to certified person stating that the declaration has not been provided and giving the certified person notice that if the declaration remains outstanding past the period specified in the notice the certification may be withdrawn; or
 - g. the certified person has failed to comply with a request for information issued by the Authority under paragraph C6 above and the Authority has written to the certified person stating that the request has not been complied with and giving the certified person notice that if the request for information remains outstanding past the period specified in the notice the certification may be withdrawn.
2. This certification may be withdrawn if the certified person notifies the Authority that it does not require to be certified and the Authority considers that the certified person is not a person who is required to be certified.